

PATENT
Case P6272CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Swinford et al.)
Serial No.: tba) Group Art Unit: 1761
Filed: December 30, 2003)
For: ROASTER WITH HANGING)
AND INTERLOCKING RACK)

PETITION TO MAKE SPECIAL

ACCELERATED EXAMINATION – 37 CFR 1.102(d), MPEP 708.02 PART VIII

Pursuant to 37 CFR 1.102(d) and MPEP 708.02 Part VIII, Applicants hereby petition the Office to grant special status to the above-captioned application and examine it out of order. In support of their petition, Applicants state as follows:

- A. Petition Fee.** Applicants herewith attach a check for \$130.00 as required by 37 CFR 1.17(h).
- B. Claims.** All claims of the subject application are believed to be directed to a single invention.
- C. Pre-examination Search.** Applicants have caused a pre-examination search to be made in Class 99, Subclass 426. In addition, a search was conducted based upon the prior art identified in U.S. Patent Application No. 10/231,763 of which the subject application is a Continuation.
- D. Copies of Prior Art References.** Applicants herewith submit one copy each of the references deemed most closely related to the subject matter encompassed by the claims. Other references believed to be less pertinent and that are not of record in U.S. Patent Application No. 10/231,763 are submitted herewith on an accompanying Information Disclosure Statement.
- E. Detailed Discussion of Prior Art References Deemed Most Pertinent.** Applicants set forth below a detailed discussion of these prior art references, pointing out with particularity how the claimed subject matter is patentable over the references.

01/07/2004 RADDFO1 00000047 10749173

02 FC:1460

130.00 0P

1. U.S. Patent No. 2,569,262 to Sklavenitis

Sklavenitis illustrates a food supporting cradle, 14 in Fig. 1, that includes a frame 16. The frame 16 seats on a ledge 17 so that the cradle rests in roaster 10. Handles are illustrated in Fig. 1 on the side walls of the body 11 of the roaster 10. Claim 1, the only independent claim of the subject application, recites a pan having opposing upstanding handles, each having at least one resting surface and one substantially vertical surface for supporting and abutting, respectively, terminal loop portions of a rack so that the terminal loop portions of the rack may be received by the handles of the pan. Sklavenitis does not disclose a pan having upstanding handles having resting and substantially vertical surfaces for receiving a rack. As a result, independent claim 1, and the remaining claims of the application which are dependent thereon, are patentable over Sklavenitis.

2. U.S. Patent No. 3,972,318 to Lenoir

Lenoir discloses a utensil for oven cooking that includes a rectangular hollow dish, 1 in Fig. 1, that has an edge 3. A wire frame, 9 in Figs. 1 and 3, supports a grilling rack or grating 27 and clips to the edge 3 of the dish 1, and the edge 6 of dish 5, as illustrated in Figs. 2 and 4. The wire frame 9 includes gripping handles 18 and 21 (Fig. 1).

Claim 1, the only independent claim of the subject application, recites a pan having opposing upstanding handles, each having at least one resting surface and one substantially vertical surface for supporting and abutting, respectively, terminal loop portions of a rack so that the terminal loop portions of the rack may be received by the handles of the pan. Lenoir does not disclose a pan having upstanding handles having resting and substantially vertical surfaces for receiving a rack. Indeed, as described above, the handles of Lenoir are formed from the wire frame 9. As a result, independent claim 1, and the remaining claims of the application which are dependent thereon, are patentable over Lenoir.

3. U.S. Patent No. 5,203,254 to Fletcher

Fletcher discloses a cooking rack and pan assembly that includes an aluminum foil pan and cooking rack, illustrated at 10 and 12, respectively, in Fig. 1. The pan includes a rim 24 and bottom 20 (Figs. 1 and 4). As illustrated in Figs. 1 and 4, the cooking rack clips onto the rim 24 of the pan so that the food support portions 30, 32, 34 and 36 of the cooking rack are suspended over the bottom of the pan. The cooking rack includes handle means 40 and 54 (Fig. 1).

Claim 1, the only independent claim of the subject application, recites a pan having opposing upstanding handles, each having at least one resting surface and one substantially vertical surface for supporting and abutting, respectively, terminal loop portions of a rack so that the terminal loop portions of the rack may be received by the handles of the pan. Fletcher does not disclose a pan having upstanding handles having resting and substantially vertical surfaces for receiving a rack. Indeed, as described above, the handles of Fletcher are formed from the cooking rack. As a result, independent claim 1, and the remaining claims of the application which are dependent thereon, are patentable over Fletcher.

4. U.S. Patent No. 5,339,728 to Marchwiak et al.

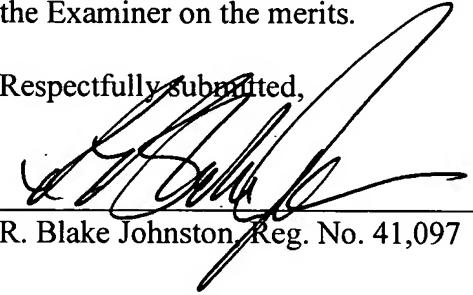
Marchwiak et al. discloses a cooking rack and pan assembly that includes an aluminum foil pan and cooking rack, illustrated at 10 and 12, respectively, in Fig. 1. The pan includes a rim 24 and bottom 20 (Figs. 1 and 4). As illustrated in Figs. 1 and 4, the cooking rack clips onto the rim 24 of the pan so that the food support portions 30, 32, 34 and 36 of the cooking rack are suspended over the bottom of the pan. The cooking rack includes handle means 40 (Fig. 1).

Claim 1, the only independent claim of the subject application, recites a pan having opposing upstanding handles, each having at least one resting surface and one substantially vertical surface for supporting and abutting, respectively, terminal loop portions of a rack so that the terminal loop portions of the rack may be received by the handles of the pan. Marchwiak et al. does not disclose a pan having upstanding handles having resting and substantially vertical surfaces for receiving a rack. Indeed, as described above, the handles of Marchwiak et al. are formed from the cooking rack. As a result, independent claim 1, and the remaining claims of the application which are dependent thereon, are patentable over Marchwiak et al.

F. CONCLUSION

Applicants have met all requirements set forth in MPEP 708.02 Part VIII, and therefore respectfully request that their application be made special. Applicants await the decision of the Commissioner in this respect and a first action from the Examiner on the merits.

Respectfully submitted,


R. Blake Johnston, Reg. No. 41,097

Dated: 12/30/03

PIPER RUDNICK LLP
P.O. Box 64807
Chicago, IL 60664-0807
(312) 368-8921